IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 447 OF 1998

Mr. Radheraman Singh .. Petitioner

Vs.

Nutan Hindi Sahitya Mandal & Ors. .. Respondents

None present.

CORAM: B.H. MARLAPALLE, J.

Date : June 13, 2005.

P.C.:

1. In Short Cause Suit No.6358 of 1997 the application for ad-interim order was allowed by the Additional Principal Judge, City Civil Court at Mumbai vide his order dated 22/12/1997 and the petitioner was restrained from entering the suit premises of the plaintiff-trust. Writ Petition No.524 of 1998 came to be filed praying for the following relief:-

> (a) That a writ of certiorari or any other writ, order or direction be issued, calling for the records and proceedings pertaining to the impugned Judgment & Order dated 20/12/97 (EX."E") and after going into the legality and validity of the same, quash and set aside the

same.

(b) That a Writ of Mandamus or any other Writ, Order, or direction be issued, ordering and directing the 8th Respondent to give his decision on the change report being Change Report No.1697 of 1997 within a period of four weeks from the date of the order.

(c) That it be declared that Section 22 of the Bombay Public Trust Act, 1950 is arbitrary, illegal and is liable to be struck down.

2. When the petition came up for hearing on 31/3/1998 permission was sought for converting the petition into a Revision Application and such a permission was granted subject to the admissibility. Though the title of the petition was changed into CRA registered as CRA No.447/98, the prayer clauses were not amended. It is noted from the order at Exh."E" annexed to the petition that on 20/12/1997 the application moved by the defendant under Section 9A of C.P.C. regarding the jurisdiction of the Civil Court in view of the purported bar of Section 80 of the Bombay Public Trust Act was rejected by holding that the said bar would not apply to the case filed before the learned 1st Addl. Principal Judge i.e. Short

Cause Suit No.6358/97. This order has been challenged in the instant Civil Revision Application, but the challenge to the constitutional validity of Section 22 of the said Act has not been deleted during last about seven years and, therefore, this CRA cannot be entertained.

. The CRA is, therefore, rejected summarily and this order will not come in the way of the petitioner to take out appropriate proceeding as may be permissible in law.

(B.H. Marlapalle,J.)